

UNITED NATIONS

THIRD CONFERENCE
ON THE LAW OF THE SEA

Distr.
RESTRICTED
18 April 1975
ENGLISH
Original: FRENCH

Third Session
GENERAL COMMITTEE

PROVISIONAL SUMMARY RECORD OF THE ELEVENTH MEETING

held at the Palais des Nations, Geneva,
on Tuesday, 15 April 1975, at 10.10 a.m.

Chairman:

Mr. AMERASINGHE

Sri Lanka

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GE.75-64627

PROGRESS OF WORK: REPORTS BY THE CHAIRMEN OF THE COMMITTEES

The CHAIRMAN said that he had held the usual consultations with the Chairmen of the three main Committees in order to ascertain the status of the work and to determine whether the procedures and methods of work being employed satisfied the needs of the occasion.

In the First Committee a text of article 9 - the key article which covered the questions who might exploit the Area and what the basic conditions of exploration and exploitation should be - was being worked on and might possibly be available at the end of the week. A unified text covering the entire scope of the First Committee's mandate would probably be ready by the end of the sixth week.

In the Second Committee groups with common interests and other groups continued to function, but the very fact that they were limited in size made it imperative to prepare, with the least possible delay, some text that would form the basis for that kind of negotiation, even if it was an informal one. Groups, both formal and informal, were dealing with the most critical issues before that Committee. The small groups with common interests within the Committee were proceeding with their work, and a procedure had been adopted which would minimize duplication of the work being done in other formal and informal groups, for example, with regard to the question of the economic zone.

The work of the Third Committee depended very heavily on the resolution of the essentially jurisdictional issues being examined in the Second Committee. With regard to scientific research, for example, the Second Committee had to decide whether the coastal State had an exclusive right; the idea had been put forward that the coastal State should exercise exclusive rights over applied research and that pure research might be undertaken after notification to the coastal State. Similarly, in the area beyond national jurisdiction, the questions of pollution and scientific research involved the International Authority and the powers to be granted to it. Hitherto, the Third Committee had been considering the question of monitoring pollution without examining matters of jurisdiction. Scientific research, the régime of artificial islands and installations, and the matter of responsibility and liability for damage resulting from scientific research were questions which appeared to involve more than one Committee. Those examples clearly demonstrated the interdependence of all the issues.

Two vital matters had to be settled at the present stage of the work. The first related to the initiation of the process of negotiation involving all participants. He reminded members that, early on in the session, he had said that negotiations involving all the participants should be based on a unified text, reflecting all the current positions, to be prepared by the Chairman of each Committee in consultation with his fellow officers. A text of that kind, which might be informal, seemed to be particularly indispensable in the case of the Second Committee; the First and Third Committees were already drafting unified texts. During the negotiations on the unified text, each delegation would be free to propose amendments, but it would be advisable to avoid the pitfall of protracted monologues and dialogues at cross purposes. Furthermore, provision had been made for joint meetings of Committees - a procedure that might be useful in the case of the issues for which the Third Committee was awaiting the outcome of the Second Committee's negotiations. In order to ensure proper co-ordination, the negotiations would have to be conducted by the President in association with the Chairmen of the three Committees.

The second question was that of the time-schedule for the remainder of the Conference. He suggested that the unified texts should be ready by the end of the week so that the sixth and seventh weeks might be devoted to negotiations in plenary meetings of the Committees, which might be informal. The unified texts need not initially cover the full range of issues falling within a Committee's purview, but each should include sufficient material on closely related issues for the Committee to consider it in informal plenary meetings. The final week of the session should be devoted to plenary meetings of the Conference and would provide the indispensable link in the co-ordination of the work of the three main Committees.

At that stage it would be possible for the Conference to decide whether or not another short session should be held during 1975. Whatever the degree of progress achieved, another session of four weeks during the summer might prove extremely valuable. If there was agreement to that effect, the current session would not be closed but would be adjourned. Since there was a very heavy calendar of conferences for the current year, he had asked the Secretariat to be prepared to furnish all the relevant information if it should be necessary. In conclusion, he suggested that a plenary meeting of the Conference should be held on Thursday, 17 April, at 9.30 a.m., when he would make a full evaluation of the work and present a formal proposal regarding the matters to which he had referred.

Mr. ENGO (United Republic of Cameroon), speaking as the Chairman of the First Committee, said that the half-way point of the session was an appropriate moment for taking stock of the situation, not least because the general public, the press and the delegations themselves were beginning to ask how the Conference was faring in its task of constructing a new world order for ocean space. While it would be wrong to speak about indolence or lack of progress, the Conference had been convened to negotiate a convention, and yet it sometimes gave the impression that it was incapable of interpreting the prevailing ideas, norms and principles which such a convention should reflect.

As to the work of the First Committee, it had not been deemed desirable to hold formal meetings because of the nature of the informal dialogue within the regional and other groups. Given the volume of the work to be tackled, the programme and methods of work would probably need constant review and adaptation. The mandate of the First Committee comprised, first, the elaboration of a régime for the administration of the Area which had been declared the common heritage of mankind and, secondly, the development of machinery to give an operational form to that régime. The First Committee had decided to commence its work with the first of those subjects and had elaborated norms and principles concerning the régime on the basis of the 21 articles prepared by the Sea-Bed Committee. Despite the complexity of the issues involved, the Committee had reached the stage at which its members were able to focus their collective attention at the same time on the same issues, in an order acceptable to all.

Two main schools of thought were discernible on the vital issues, particularly those relating to article 9, and it might soon be possible to prepare a unified document embodying all the ideas on which negotiations were currently being held. It should be possible to deal in informal plenary meetings with some specific issues on which negotiations had already begun. The Committee would soon tackle the second part of its mandate - the international machinery - possibly while continuing its work on the régime.

A unified text, comprising, perhaps, one set of draft articles on the régime and another set on the machinery, was imperative; the two subjects were of equal importance. Moreover, there appeared to be a general feeling that the future convention should be adopted as a "package" and by consensus. Clearly, all the Committees would need to produce unified texts for the final negotiations, thus providing an over-all picture of the outcome of the discussions. In conclusion, he appealed to all delegations not to do anything that might hinder progress.

Mr. GALINDO-POHL (El Salvador), speaking as the Chairman of the Second Committee, said that the President of the Conference had clearly stated the stage reached in the work of the Second Committee. Indeed, thanks to the work of the interest groups, progress was constantly being made. The groups met alternatively in the mornings and afternoons, and were trying to avoid any duplication of work. Their task was to present a clear picture of the results of their work for discussion by the plenary Second Committee.

Mr. YANKOV (Bulgaria), speaking as the Chairman of the Third Committee, said that the President had correctly appraised the work of the Committee and he wished to inform the General Committee that the method of work adopted in his Committee had proved satisfactory and met the needs of the process of negotiation. The best results so far as negotiations were concerned had been obtained by the efforts of the chairmen of the informal meetings which had dealt with items 12, 13 and 14. Thus, the general opinion of the Committee was that the machinery was satisfactory even if there was some concern regarding the slowness of the negotiation process, which was due to other causes. However, there had sometimes been difficulties when informal regional group meetings had been convened while the Committee was supposed to be conducting negotiations in plenary; priority should be given to the latter. Negotiations were taking place in plenary meetings; at the same time, small working groups, comprising the delegations directly concerned, had been formed and were reporting to the Committee. The Committee had attempted to work on the basis of unified texts submitted by the chairmen of the various informal groups. Up to the present, the Third Committee had held three official meetings and 12 to 14 informal meetings, not counting the meetings of small drafting groups.

As to the work itself, the Third Committee had resumed its work on item 12 at the stage that had been reached at Caracas and it had begun with "monitoring", on which the relevant group had prepared and approved the common text contained in document CRP/MP/16. The question of the obligation to put an end to violations and to the effects thereof would be considered in connexion with the question of responsibility and the settlement of disputes.

Informal meetings had begun consideration of the question of "standards". For that purpose, the group was following the method of work, approved at Caracas, which was based on the various sources of marine pollution. The first question - land-based pollution - had already been discussed and a text had been approved by the informal meeting.

Informal meetings had also been held on items 13 and 14 -- scientific research and transfer of technology -- by the plenary Committee and by drafting and negotiating groups composed of the most interested delegations. There too the Committee had resumed the work at the stage which had been reached at Caracas and had dealt firstly with the status of scientific equipment in the marine environment. Various delegations had submitted new texts which had been reproduced in working papers. Despite the efforts made, it had not been possible to arrive at a single compromise text. The Committee currently had two alternative texts before it.

The informal meetings then went on to discuss the item "responsibility and liability"; several new texts had been submitted and an attempt was being made to draft a single compromise text.

The Third Committee had engaged in very serious negotiations. He wondered, however, whether it was time to change the method of work or to continue with the established procedure of working within the Committee as a whole on the basis of compromise unified drafts prepared by the chairmen of the groups. In any event, the President's suggestions should be considered in a flexible way as an attempt to accelerate the proceedings of the Conference. The Third Committee would suggest that for the time being all the possibilities offered by the current method of work should continue to be explored. On the other hand, with respect to the questions on jurisdiction (protection of the marine environment, control of scientific research, etc.), it would be difficult for the Third Committee to continue its work if, at some time or other, those questions were not considered in conjunction with the Second Committee, within the context of the Conference as a whole.

He reserved his delegation's right to speak again on the question raised by the President concerning a possible resumption of the session.

The CHAIRMAN pointed out that any process whereby negotiations took place on the basis of a unified text with the full participation of members of a Committee was in line with the idea he had expressed at the beginning of the meeting.

Mr. ZEGERS (Chile) said that in the little time that remained, the Conference must obtain a minimum of concrete results and endeavour to inform international opinion and governments of the reasons for its slow progress. The need to work on unified texts, referred to by the President of the Conference, was obvious,

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as had been confirmed by the Chairmen of the First and Third Committees, which were striving to prepare such texts. However, what was the situation of the Second Committee? It appeared that there too a unified text would be the only means of facilitating valid official negotiations. Such a basic text would be informal; it could be modified, but all delegations would be working on the basis of a unified text. In preparing a text for the Second Committee, its Chairman might take into consideration the various versions drafted at Caracas, the results of the work of the interest groups - including the group dealing with historic bays - and the pre-negotiation results obtained at the informal meetings of the various groups. His delegation fully supported the suggestions of the President of the Conference.

Mr. TREPCZYNSKI (Poland) also supported those suggestions to the extent that they would accelerate the work of the Conference; however, he considered it advisable first to exhaust all the possibilities offered by the procedure followed by the Conference thus far. He noted with satisfaction that, according to the reports of their Chairmen, the three Committees were making progress in their work, through the informal meetings being held by their working and consultation groups. He therefore felt that it would be dangerous and premature, at the present stage, to ask the Chairmen of the Committees to begin to prepare a unified text when the working groups had not yet completed their work and it was still impossible to appraise the results. It would be preferable to ask the Chairmen of the Committees to begin preparing a unified text as soon as they knew the results of all the informal meetings held during the Conference. A unified text should take into account all the opinions expressed at the meetings that would take place during the final three weeks of the Conference. Each Chairman should prepare the text in question in collaboration with the officers of the Committee concerned. If a Chairman felt that it was not possible for him to have a text ready by the end of the present session, he might be allowed some additional time - one month, for example.

Such a procedure would have several advantages: it would permit due consideration to be given to the work being done among the various groups and at the informal meetings; it would release the Chairmen from the pressure of time for it would be dangerous to be hasty in the preparation of such an important convention; and, finally, it would allow delegations sufficient time to study the prepared texts between the present session and the following one, with a view to formulating their observations and submitting generally acceptable proposals.

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Mr. BAILEY (Australia) considered it essential to have a single negotiating text. He noted with satisfaction the progress made in that regard by the First and Third Committees. In the Second Committee, however, despite protracted discussions in its working groups, the process of negotiation as a whole had not yet started for lack of a single text. In his view, the preparation of such a text would not create insuperable problems for the Second Committee because it already had at its disposal a certain number of documents drawn up by small working groups and by informal interest groups. Thus his delegation would support any effort by the Chairman of the Second Committee towards the preparation of a unified text as soon as possible.

Mr. TREDINNICK (Bolivia) considered it urgent to adopt a fair and equitable convention that recognized the rights and duties of all countries, including landlocked countries. He hoped that the unified text envisaged would safeguard the legitimate rights of the landlocked countries, including free access to the sea, freedom of transit and full participation in the economic zones. However, he did not find the existing texts satisfactory in that regard and he had already drawn the attention of the Conference to the gaps in the Second Committee's main working paper (A/CONF.62/C.2/WP.1). Any unified text must be the product of democratic discussion. It was therefore essential to convene another session of the Conference.

Mr. CHI-LUNG (China) observed that although the Conference had held formal and informal meetings, the essential questions had simply been put aside and had not been seriously discussed at all by delegations. The Conference must devote its remaining time to those questions. It was impossible to resolve problems of detail as long as the questions of substance had not been settled by negotiation. The second reading of the matters dealt with in working paper A/CONF.62/C.2/WP.1 had not yielded the expected results. Questions such as those relating to the territorial sea, straits and the economic zone were questions of principle which must be dealt with as matters of priority. He therefore hoped that the Conference would devote the remaining weeks of the session to their examination. All States should be able to take part in that process with equal rights. The establishment of an excessive number of working groups could create difficulties for many delegations, particularly of developing countries, which were short of personnel, and which would thereby be excluded from discussions on

important issues. All delegations must therefore be given the opportunity of taking part in the work of the Conference on an equal footing by being allowed to expound their views and having those views taken into account in the Conference's working papers. In that connexion he associated himself with the comments of the representatives of Spain and Peru.

The time had not yet come to request the Chairmen of the Committees to draw up a unified text covering the subject-matter assigned to their respective Committees, because a number of substantive questions (territorial sea, straits, economic zone etc.) coming within the terms of reference of the Second Committee had not yet been seriously discussed and no consensus had been reached on them since the parties concerned were maintaining their respective positions. In those circumstances how could a small number of delegations be given the task of preparing a unified text without referring to the plenary Conference? He did not believe that informal negotiations could take the place of discussions in plenary meeting. Delegations should be given the opportunity at once of initiating the consultations they so eagerly awaited and they should not be asked to wait for several weeks more until a basic document was prepared. The discussions would then be confined to that document.

As for the future work of the Conference, it should wait until the end of the present session before taking a decision about the next one.

Mr. STEVENSON (United States of America) firmly supported the Chairman's suggestion concerning the preparation of a general negotiating text. It would be difficult to adopt the Chilean representative's suggestion because it would take a long time to draw up a report on substantive matters. He agreed with the representative of China that it was still too early to decide about the Conference's future work and at that stage it would be better to concentrate on producing a negotiating text. The question of whether the last week of the Conference should be devoted to plenary meetings would depend on the progress made on that text. In any event, it was important at the present session to adopt a unified text at the level of the Committees.

Mr. KOH (Singapore) supported the Chairman's suggestion that the three committees should negotiate on the basis of a single text. Since the First and Third Committees were already proceeding in that way it would be preferable not to interfere in their work. The Chairman's suggestion was therefore applicable primarily to the Second Committee. Like the representatives of Chile and Australia he would strongly

support any effort by the Chairman of the Second Committee to establish a single negotiating text because that would speed up the Conference's work. However, to dispel the apprehensions of certain delegations he wished to make it clear that what he had in mind was not a compromise or a negotiated text but a text to be used by the Committee as a basis for negotiation. Its content would not in any way be binding on delegations, which would be free to submit amendments. In drawing up the text the Chairman of the Second Committee would have to take account of the views expressed by the various delegations on the items of the agenda.

Mr. ANDERSEN (Iceland) observed that the slow progress being made by the Conference was causing grave disquiet to many delegations. The solution suggested by the Chairman was the only way of helping the Conference to escape an impasse. Since a consensus or a majority decision were both impossible, the preparation of a unified text was the only realistic solution, and he supported that course unreservedly.

Mr. SCHREIBER (Peru) said he was in no way opposed to the preparation of a unified text but as he understood it, the task was to be entrusted to the Chairman of each Committee in accordance with a mandate. However, by virtue of the Conference's rules of procedure, it was for the delegations, and not for the Chairmen of Committees, to prepare such a text. It could be understood if delegations were to collaborate informally with the Chairman of the Committee concerned in the preparation of an informal unified document designed to facilitate negotiations, but there could be no question whatever of an official document prepared under a mandate given by the Conference to the Chairmen of the Committees. He hoped that the various views expressed in the Conference would be taken into account in the unified text. As to the method to be followed in the preparation of such a text, that was for each Committee to decide.

With regard to a subsequent session of the Conference, he recalled that, at Caracas, the Conference had decided, after a long debate, to hold a single session at Geneva in 1975. In his view, that decision excluded any possibility of resuming the Conference during the year. The decision could not be changed, for many countries, particularly the developing countries, were facing economic difficulties and did not have sufficient diplomatic staff. The possibility might be considered of holding

informal meetings in New York during the coming session of the General Assembly, in September 1975, in order to try to reach a consensus. However, the next official session of the Conference must not be held before 1976.

Mr. KNOKE (Federal Republic of Germany) supported the proposal whereby the Chairman of each Committee would draw up a unified text, provided it was simply a negotiating text, as had been clearly stated by the representative of Singapore.

With regard to the disappointment that might be felt by world opinion at the slowness of the progress made by the Conference, he observed that the Conference had a very difficult task and that the International Law Commission had taken 10 years to prepare the text submitted to the Conference on the Law of the Sea held at Geneva in 1958. The law of the sea was a very important and complex subject and its codification required considerable time. Consequently, as the representative of Poland had suggested, if the Chairman of the Second Committee was unable to draw up a unified text by the end of the current session, he should be accorded the necessary time to do so. It would therefore be preferable to hold the following session of the Conference in 1976, as suggested by the representative of Peru.

Mr. JEANNEL (France) supported the Chairman's suggestion that texts be drafted to serve as a basis for negotiations. However, the First and Third Committees, which appeared to be making progress in their work, should be left free to continue their efforts. The Chairman's suggestion therefore applied more to the Second Committee, which was making slower progress due to the fact that it was dealing with a greater number and variety of items.

He emphasized that the texts in question would not be compromise texts; they should simply reflect the various trends that had emerged in the Committees and help to start negotiations.

The Chairman's suggestion for holding another session in 1975 was something quite new: both at the Caracas session and at the General Assembly, the idea of holding two sessions in 1975 had been discarded. It would be premature to try to decide that question before the last week of the current session. It would also be premature, and even asking too much, to request the Chairmen of the Committees to complete a text within a month following the end of the current session. Moreover, it would be pointless to impose upon them a time limit of one month when the next session might not be held before 1976.

Some representatives had stressed that the eyes of the international community were on the Conference and that public opinion should not be disappointed by the holding of additional sessions. In his view, what was most important was to inform world opinion of the difficulties the Conference was confronting. As the representative of the Federal Republic of Germany had observed, the 1958 Conference on the Law of the Sea had had before it a draft convention which the International Law Commission had taken ten years to prepare. The absence of such a basic text, however, should not now justify too slow a pace.

Mr. OGISO (Japan) considered the Chairman's suggestion concerning unified texts acceptable, subject to certain reservations. The Chairmen of the Committees should be invited to try to prepare those texts in the light of the progress made by each Committee. There was a certain interdependence in the work between the three Committees. Thus, the work of the Third Committee depended on the progress made by the Second Committee on questions of jurisdiction. It would be necessary to indicate at what time each of the Chairmen should undertake the drafting of a unified text. Such texts should not be official: they should make it possible for negotiations to proceed, without prejudice to the position of each Committee. The Chairmen of the Committees should not only seek the assistance of the other officers, but should also take into consideration the results of the informal consultations. That was why they should not draft the texts until what they felt was the proper time. Finally, he thought that a discussion on a possible subsequent session would be a waste of time at the current stage of the Conference's work.

Mr. KOZYREV (Union of Soviet Socialist Republics) said he thought the Chairmen of the Committees should only be asked to draw up a unified text if it could be ensured that such a text would not prejudice the interests of any State and could serve as a valid basis for discussion. The Chairmen of the Committees should consult both the officers and interested delegations, using the method employed by the President of the Conference at the Caracas session in drawing up the rules of procedure. The texts prepared by the Chairmen of the Committees during the short time remaining should then be considered by all the delegations in each Committee. Delegations could then submit amendments to them and finally adopt them by consensus. Clearly, the end of the

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session was too near for a detailed consideration of that kind to be possible. In order to avoid taking hasty decisions and having unified texts that were less the work of the Committees than of their Chairmen, the texts should be distributed to delegations at the end of the current session and they should have sufficient time to study them before the next session. Important questions, particularly those concerning straits and the economic zone had not yet been sufficiently studied in the Second Committee. Each delegation should have the opportunity of submitting its views on all important questions. In the meantime, therefore, the Committees should be urged to study all the issues they had been asked to settle and the question of a further session should be dealt with later.

Mr. ADENIJI (Nigeria) said that it was time to start the negotiating phase. Any slowing down of the work of one Committee served to delay that much longer the moment at which agreement could be reached on the text of the future convention. In view of the different tasks of the three Committees, it could not, however, be expected that their work should progress at the same pace.

As the representative of the Federal Republic of Germany had pointed out, the Conference did not have a draft convention before it. That situation might be explained by the fact that, in view of the nature of the subject, it had been essential to begin by a general debate of a political character. The difficulties inherent in the drafting of unified texts by the Chairmen of the Committees must not be underestimated. The task should, therefore, be carried out with all due care and each Chairman should be free to decide when it should be undertaken. The Chairmen of the Committees should engage in consultations with the other officers and the various groups without worrying too much about the time factor.

As to the question of the next session of the Conference, the President of the Conference might ask the chairmen of the regional groups to discuss it within their groups.

Mr. Al-SABAH (Kuwait) supported the drafting of unified texts, but said it was essential to take into account the views of all delegations. Since the texts would not be the result of negotiations, they should not constitute compromise solutions either. As for the question of a possible session later in 1975, he recalled that, the previous year, the General Assembly had been of the opinion that one should only be held if the Geneva session produced substantial results. It would therefore have to be decided whether a second session in 1975 was justified.

Mr. KEDADI (Tunisia) pointed out that all the States participating in the Conference seemed to be as anxious as the Chairman that the work of the Conference should be successful. Some States, however, were finding it difficult to make the concessions that a majority of other States were asking of them. Such an attitude was not in contradiction with the aim of the Conference, namely, to draw up a universal convention acceptable to the greatest possible number of States.

Obviously, the unified texts envisaged by the Chairman would not be compromises, but working papers. However, it was not very probable that such texts could be prepared by the Chairmen of the three Committees with the help of the officers and that the Conference could consider them by the end of the current session. The most that could be hoped for was that by that time the Chairmen of the Committees could meet with the President of the Conference to finalize the unified texts. They could then be circulated to the participating States which would have time to study them before the next session, which would doubtless take place in 1976. In any case, it would be premature at the moment to decide to continue the session sometime during the summer of 1975.

The CHAIRMAN, reviewing the various matters raised during the meeting, observed that the expression "single negotiating text" used by the representative of Singapore was preferable to the term "unified text", which he had himself used. The texts should be prepared in the light of all the discussions and they should not commit anyone. They would serve as a basis for negotiation but would be neither compromise texts, nor texts on which voting would take place, for it would be impossible for the Chairmen of the Committees to prepare texts reflecting the views of all delegations. A suggestion had been made that the various formal and informal working groups should try to draft such texts after the session, but that hardly seemed realistic. How could they if the Chairmen of the Committees themselves were unable to do so?

There was no justification for claiming that insufficient use had been made of the provisions of the rules of procedure. As a matter of fact, rule 50 of the rules of procedure referred only to the subsidiary organs of the Conference and not to informal groups. Rules 37 to 49 were the ones which dealt with the work of the Conference, while rule 55 rendered those provisions applicable to the Committees. It was important that the working groups should complete their work as soon as possible and report to the Chairmen. The Committees might well decide not to place a time limit on the informal groups, but the negotiating process seemed to have already started in the First and Third Committees.

Participants should beware of drawing analogies with the 1958 Conference on the Law of the Sea, for which the International Law Commission had prepared a draft convention. Moreover, there was nothing to indicate that the single negotiating texts prepared by the Chairmen of the Committees would not constitute an equally good basis, but negotiations had to start at the current session.

It had never been considered necessary for the session to be entirely devoted to plenary meetings, and the Committees must have all the time they needed, but it might be advisable for the work of the Committees to be co-ordinated from time to time in plenary meetings.

As to the next session, he favoured the suggestion of the Nigerian representative that the chairmen of the regional groups should be asked to consult their groups. It had, it was true, been decided to hold only one session in 1975 because it had appeared that one session would suffice, but it was now clear that it would not be possible to arrive at compromise solutions in a single session.

The meeting rose at 12.20 p.m.